

US EPA ARCHIVE DOCUMENT

(ii) Additional material. TNRCC certification letter dated June 25, 1997, and signed by Gloria Vasquez, Chief Clerk, TNRCC.

[FR Doc. 98-28114 Filed 10-20-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA122-4078a; FRL-6178-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Withdrawal of Final Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to receipt of adverse comment, EPA is withdrawing the direct final rule for the approval of revisions to the Pennsylvania State Implementation Plan (SIP). EPA published the direct final rule on September 16, 1998 (63 FR 49436), approving revisions to supplement Pennsylvania's enhanced motor vehicle emissions inspection and maintenance (I/M) program. As stated in that **Federal Register** document, if adverse comments were received by October 16, 1998, a timely withdrawal would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action and issue a final rule based on the parallel proposal also published on September 16, 1998 (63 FR 49517). In a separate document appearing in the *Proposed Rules* section, EPA is announcing extension of the comment period on this action.

**EFFECTIVE DATE:** October 21, 1998.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, (215) 814-2176, or by e-mail at rehn.brian@epamail.epa.gov.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: October 8, 1998.

**W. Michael McCabe,**  
*Regional Administrator, Region III.*

[FR Doc. 98-28112 Filed 10-20-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-6176-6]

#### Idaho: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** Idaho has applied for final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). This authorization addresses regulations promulgated between July 1, 1993 and July 1, 1996 with the exception of the Organic Air Emission Standards for Tanks, Surface Impoundments and Containers (Subpart CC standards). The EPA has reviewed Idaho's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comment is received during the review and comment period provided in this rule, EPA's decision to authorize Idaho's hazardous waste program revision will take effect.

**DATES:** This Final authorization for Idaho will become effective without further notice on January 19, 1999, if the EPA receives no adverse comment by November 20, 1998. Should the EPA receive adverse written comment, the EPA will withdraw this rule before the effective date by publishing a timely withdrawal in the **Federal Register**.

**ADDRESSES:** Mail written comments to Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM-122, Seattle, WA 98101, phone, (206) 553-0256. Copies of the materials submitted by Idaho are available during normal business hours at the following locations: EPA Region 10 Library, 1200 Sixth Avenue, Seattle, WA, 98101, phone (206) 553-1289 and the Idaho Department of Health and Welfare, Division of Environmental Quality, Planning and Evaluation Division, 1410 N. Hilton, Boise, Idaho 83706, phone, (208) 373-0502 (Refer to Docket numbers: 0105-9401, 0105-9502, 0105-9601; contact is Pam Smolczynski).

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM-122, Seattle, WA, 98101; phone (206) 553-0256.

## SUPPLEMENTARY INFORMATION:

### A. Background

States with final authorization under Section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the states must revise their programs and apply for authorization of the revisions. Revisions to state hazardous waste programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must revise their programs because of changes to the EPA's regulations in 40 Code of Federal Regulation (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

### B. Idaho

Effective on April 9, 1990 (55 FR 11015, March 26, 1990), Idaho was granted final base authorization for those non-HSWA (Hazardous and Solid Waste Amendments of 1984) and HSWA requirements promulgated as of July 1, 1987, and interim authorization for the HSWA Corrective Action provisions promulgated as of July 1, 1987. Final authorization for those HSWA Corrective Action provisions was granted effective on June 5, 1992 (57 FR 11580, April 6, 1992). Effective on August 10, 1992 (57 FR 24757, June 11, 1992), Idaho was granted final authorization for those HSWA and non-HSWA provisions promulgated as of July 1, 1990. On March 30, 1995, Idaho was granted final authorization for HSWA and non-HSWA provisions promulgated as of July 1, 1993.

Through two codification actions dated December 6, 1990 (55 FR 50327), and June 11, 1992 (57 FR 24757), the EPA has codified at 40 CFR 272 Subpart N all authorization actions for the State of Idaho RCRA program, which reflect non-HSWA and HSWA requirements promulgated as of June 30, 1990.

On September 17, 1996, the Administrator of the Idaho Division of Environmental Quality submitted a revised application to obtain final authorization for those non-HSWA and HSWA requirements promulgated as of July 1, 1995. This application was determined complete on October 10, 1996. On October 11, 1996 a petition was submitted to the EPA asking that the EPA initiate withdrawal proceedings of Idaho's authorization to administer Subtitle C of RCRA. The petition claimed that Idaho's Environmental Audit Protection Act warranted program withdrawal. Idaho's Environmental

Audit Protection Act expired on December 31, 1997 rendering the basis of the petition's assertions moot. No withdrawal proceedings were initiated.

On October 3, 1997, Idaho submitted an updated program revision application, seeking authorization of its September 17, 1996 program revision amending it with additional regulations in accordance with 40 CFR 271.21. The EPA reviewed Idaho's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Idaho's hazardous waste program revision satisfies all of the requirements necessary to qualify for Idaho's Authorization. Consequently, the EPA intends to grant Final Authorization for the program modifications contained in the revision.

The public may submit written comments on EPA's final decision until November 20, 1998. Copies of Idaho's application for program revision are available for inspection and copying at the locations indicated in the ADDRESSES section of this document.

If the EPA does not receive adverse written comment pertaining to Idaho's program revision by the end of the comment period, the authorization of Idaho's revision will become effective 90 days from the date this document is published and EPA will take no further action on the companion document appearing in the Proposed Rules Section of today's **Federal Register**. If the Agency does receive adverse written comment, it will publish a document withdrawing this immediate final rule before its effective date. The EPA will

then address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. The EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so at this time.

This revision maintains Idaho's regulatory equivalency with the federal RCRA program by incorporating by reference all delegable hazardous waste regulations revised between July 1, 1993 through July 1, 1996 with the exception of the Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers (59 FR 62896). The following table identifies all the Federal provisions being requested for authorization and are effective state law.

Federal Citation as incorporated by Idaho with Idaho annotations and exceptions	State rule Citation (IDAPA)
<b>40 CFR Part 260</b> All subparts as of July 1, 1996. For the purposes of 40 CFR 260.22, <b>Federal Register</b> shall be defined as the Idaho Administrative Bulletin. ....	16.01.05.004
<b>40 CFR Part 261</b> All subparts including appendices as of July 1, 1996. Idaho has adopted a state-specific rule which delists chemically stabilized K061 waste at EnviroSafe Services of Idaho, Inc. ....	16.01.05.005
<b>40 CFR Part 262</b> All subparts as of July 1, 1996 except reference to 40 CFR 265 Subpart CC and that advance notification, annual reports, and exception reports in accordance with 262.53, 262.55, and 262.56 shall be filed with the EPA Regional Administrator and the Director of IDHW shall be copied. All references to EPA in 262.51, 262.54(g)(1) and 262.57(b) shall remain defined as EPA. In addition to the Emergency Notification Requirements in 40 CFR 262.34(a)(4), the State Communications Center must also be contacted at 1-800-362-8000. ....	16.01.05.006
<b>40 CFR Part 263</b> All subparts as of July 1, 1996. ....	16.01.05.007
<b>40 CFR Part 264</b> All subparts as of July 1, 1996 except 264.149, 264.150, 264.301(l) and Subpart CC. All references to the Regional Administrator in 264.12(a) shall be defined as the EPA Regional Administrator. ....	16.01.05.008
<b>40 CFR Part 265</b> All subparts except Subpart R, Subpart CC, 265.149 and 265.150 as of July 1, 1996. ....	16.01.05.009
<b>40 CFR Part 266</b> All subparts except Subparts A and B as of July 1, 1996. ....	16.01.05.010
<b>40 CFR Part 268</b> All subparts except 268.1(e)(3), 268.5, 268.6, and 268.42(b) as of July 1, 1996. If the Administrator of EPA grants a case-by-case variance pursuant to 268.5, that variance will simultaneously create the same case-by-case variance in the equivalent Idaho rule. ....	16.01.05.011
<b>40 CFR Part 270</b> All subparts as of July 1, 1996 except reference to 40 CFR 264 Subpart CC and 40 CFR 265 Subpart CC. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(3), 270.72(a)(5) and 270.72(b)(5), EPA shall remain defined as EPA. ....	16.01.05.012
<b>40 CFR Part 273</b> All subparts as of July 1, 1996. ....	16.01.05.016
<b>40 CFR Part 279</b> All subparts as of July 1, 1996. ....	16.01.05.015
<b>40 CFR Part 124</b> Subparts A and B only as of July 1, 1996, except that the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b) and 124.10(c)(1)(ii) EPA shall remain defined as EPA. ....	16.01.05.013
RCRA 3005(j) .....	16.01.05.014
RCRA 3006(f) .....	16.01.05.997

The State of Idaho is not being authorized to operate in any Indian country.

### C. Decision

I conclude that Idaho's application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the EPA grants Idaho Final Authorization to operate its hazardous waste program as revised. Idaho now has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Any subsequent changes to the Federal program that occurred after July 1, 1996 are not part of Idaho's authorized RCRA program. Idaho also has primary enforcement responsibilities, although the EPA retains the right to conduct inspections under section 3007 of RCRA, 42 U.S.C. 6927, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6928, 6934 and 6973.

### D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize Idaho's program and for incorporation by reference of those provisions of its statutes and regulations the EPA will enforce under sections 3008, 3013 and 7003 of RCRA. The EPA reserves amendment of 40 CFR part 272, Subpart N until a later date.

### E. Unfunded Mandates

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### F. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of proposed rulemaking under the Administrative Procedure Act or any other statute, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small

entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is not required, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities. Today's rule does not impose any federal requirements on regulated entities, whether large or small. Instead, today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program. Today's rule carries out Congress' intent under RCRA that states should be authorized to implement their own hazardous waste programs as long as those programs are equivalent to, and no less stringent than, the Federal hazardous waste program. In this case, to the extent that the State's hazardous waste program is more stringent than the Federal program, any new requirements imposed on the regulated community apply by virtue of state law, not because of any new Federal requirement imposed pursuant to today's rule.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

### G. Submission to Congress and the Comptroller General

Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### H. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.)

12866, entitled "Regulatory Planning and Review."

### I. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

### J. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

### K. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the



Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### L. Paperwork Reduction Act

Under the Paperwork Reduction act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

#### M. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113 section 12(d) (15 U.S.C. 272) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be standards inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous Waste transportation, Indian land, Intergovernmental relations, Penalties, Reporting and recordkeeping

requirements, Water pollution control, Water supply.

**Authority:** This document is issued under the authority of Sections 2002(a) 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 6, 1998.

**Chuck Clarke,**

*Regional Administrator, U.S. Environmental Protection Agency, Region 10.*

[FR Doc. 98-27702 Filed 10-20-98; 8:45 am]

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### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 101-44

[FPMR Amdt. H-200]

RIN 3090-AG77

#### Donations To Service Educational Activities

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulation issued by GSA for donations made to educational activities of special interest to the armed services. The amendment is necessary to comply with subsection 203(j)(2) of the Federal Property and Administrative Services Act of 1949, as amended. Subsection 203(j)(2) requires all donations of surplus property under the control of the Department of Defense (DOD) to service educational activities (SEAs) to be made through State Agencies for Surplus Property (SASPs). Currently, SEAs acquire property directly from DOD disposal facilities.

**EFFECTIVE DATE:** This rule is effective December 21, 1998.

**FOR FURTHER INFORMATION CONTACT:** Martha Caswell, Director, Personal Property Management Policy Division (202-501-3846).

**SUPPLEMENTARY INFORMATION:** This rule finalizes the proposed amendments to 41 CFR 101-44.4 that were published for comment at 63 FR 42310 on August 7, 1998. Since no comments were received, the proposed revisions are being issued as a final rule without change.

Under this rule, the SASPs will assume responsibilities that were previously performed by the DOD including: (1) Distributing the donated property to the SEAs; (2) conducting utilization surveys and reviews during the period of restriction to ensure that donated property is being used by the SEA donees for the purposes for which

it was donated; and (3) monitoring compliance by the SEA donees with the conditions specified in § 101-44.208 (except for §§ 101-44.208(a)(3) and (4)).

Additionally, it is important to note that the SEAs are not subject to any additional terms, conditions, reservations, or restrictions imposed by the SASPs. This exemption is provided by subsection 203(j)(4)(E) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)(4)(E)). Therefore, new §§ 101-44.400(c)(5) and 101-44.401(b) specifically state that regulatory provisions at §§ 101-44.208(a)(3) and (4) governing the imposition by SASPs of additional terms, conditions, reservations, or restrictions do not apply to donations of surplus DOD personal property to eligible SEAs.

This rule is not a major rule for the purposes of Executive Order 12866. This rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

The Paperwork Reduction Act does not apply because the rule does not impose recordkeeping or information collection requirements or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501-3520. This rule also is exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

The rule is written in a new, simpler to read and understand, question and answer format. In the new format, a question and its answer combine to establish a rule. This means the employee and the agency must follow the language contained in both the question and its answer.

#### List of Subjects in 41 CFR Part 101-44

Government property management, Reporting requirements, Surplus Government property.

For the reasons stated in the preamble, GSA amends 41 CFR part 101-44 as follows:

#### PART 101-44—DONATION OF PERSONAL PROPERTY

1. The authority citation for 41 CFR part 101-44 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Subpart 101-44.4 is revised to read as follows: